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10/656,401	09/04/2003	Tom Travis	878.0040.U1(US)	7400

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HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

EXAMINER

RAMOS FELICIANO, ELISEO

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,401

Applicant(s)

TRAVIS, TOM

Examiner

Eliseo Ramos-Feliciano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-26 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-26 and 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The drawings are objected to because they are informal. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Previous rejection to claims 30-31 and 35 under 35 USC § 112 is withdrawn in view of Applicant's amendment filed October 20, 2005.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-2, 4-6, 11-14, 18-20, 25-26, 28-32, and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rydbeck (U.S. Patent 5,590,417; hereinafter "Rydbeck") in view of Iwata (US 2002/0045454).

Regarding claims 1, Rydbeck teaches a cellular radio telephone, formed from a user selected combination of one of a plurality of user input/output devices and a cellular transceiver (FIG. 2B phone headset 110 and phone 120),

wherein the cellular transceiver comprises

cellular radio transceiver circuitry for communicating in a cellular radio telephone network (FIG. 6, transceiver 260; and column 5, line 56-column 6, line 3) and

a first low power wireless transceiver (FIG. 6, transceiver 255; and column 5, line 56-column 6, line 3),

and each of the plurality of input/output devices comprises

an audio input device and an audio output device (FIG. 4a, speaker 140 and microphone 150), and

a second low power wireless transceiver for communicating with the first low power wireless transceiver of the cellular transceiver portion (FIG. 4a, transmitter 205 and receiver 210, and FIG. 6; and column 3, lines 39-48).

whereby a user can communicate using the audio input and output devices of the selected user input/output device in the cellular radio telephone network when the selected input/output device and cellular transceiver are physically separated (FIG. 2C; FIG. 6, abstract and column 5, line 56-column 6, line 3).

It should be noticed that, Rydbeck, fails to teach the feature of a user selecting one of the plurality of user input/output devices for use as part of the cellular telephone. However, Iwata teaches such limitations in FIG. 6b, and paragraph [0008].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of a user selecting one of the plurality of user input/output devices for use as part of the cellular telephone, as taught by Iwata in view of Rydbeck, in order to provide a device the capability of adapting to communicate with different devices using radio waves as desired by the user.

Regarding claim 2, Rydbeck further teaches limitations of the claim in FIG. 4b.

Regarding claim 4, Rydbeck further teaches limitations of the claim in FIG. 7.

Regarding claim 5, Rydbeck further teaches limitations of the claim in FIGs. 3a-3c (Rydbeck provides mechanical means for attaching the headset to the mobile phone, one can always modify the means to be any shape depending on user demands).

Regarding claim 6, Rydbeck further teaches limitations of the claim in column 3, lines 3-28.

Regarding claim 11, Rydbeck further teaches limitations of the claim in column 5, line 56-column 6, line 3.

Regarding claim 12, Rydbeck further teaches limitations of the claim in column 5, line 56-column 6, line 3.

Regarding claim 13, Rydbeck teaches a cellular radio telephone, formed from a user selected combination of one of a plurality of cellular transceivers and a

user input/output device (FIG. 2B phone headset 110 and phone 120),

wherein each of the cellular transceivers comprises

cellular radio transceiver circuitry for communicating in a cellular radio telephone network (FIG. 6, transceiver 260; and column 5, line 56-column 6, line 3) and

a first low power wireless transceiver (FIG. 6, transceiver 255; and column 5, line 56-column 6, line 3), and

the input/output device comprises

an audio input device and an audio output device (FIG. 4a, speaker 140 and microphone 150), and

a second low power wireless transceiver for communicating with the first low power wireless transceiver of the cellular transceiver portion (FIG. 4a,

transmitter 205 and receiver 210, and FIG. 6; and column 3, lines 39-48),

whereby a user can communicate using the audio input and output devices of the user input/output device in the cellular radio telephone network when the input/output device and the selected cellular transceiver are physically separated (FIG. 2C; FIG. 6, abstract and column 5, line 56-column 6, line 3).

It should be noticed that, Rydbeck fails to teach the feature of a user selecting one of the plurality of cellular transceiver devices for use as part of the cellular telephone. However, Iwata teaches such limitations in FIG. 6b, and paragraph [0008] (a 'Bluetooth device can be used to selectively communicate with one of several other Bluetooth devices. Inherently, a Bluetooth cell phone can selectively communicate with one of several Bluetooth headset; and a Bluetooth headset can communicate with one of several Bluetooth cell phones).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of a user selecting one of the plurality of cellular transceiver devices for use as part of the cellular telephone, as taught by Iwata in view of Rydbeck, in order to provide a device the capability of adapting to communicate with different devices using radio waves as desired by the user.

Regarding claim 14, Rydbeck further teaches such limitations in FIG. 6b, and paragraph [0008] (a Bluetooth device can be used to selectively communicate with one of several other Bluetooth devices. Inherently, a Bluetooth cell phone can selectively communicate with one of several Bluetooth headset; and a Bluetooth headset can communicate with one of several Bluetooth cell phones).

Regarding claim 18, Rydbeck further teaches limitations of the claim in FIG. 7.

Regarding claim 19, Rydbeck further teaches limitations of the claim in FIGs. 3a-3c (Rydbeck provides mechanical means for attaching the headset to the mobile phone, one can always modify the means to be any shape depending on user demands).

Regarding claim 20, Rydbeck further teaches limitations of the claim in column 3, lines 3-28.

Regarding claim 25, Rydbeck further teaches limitations of the claim in column 5, line 56-column 6, line 3.

Regarding claim 26, Rydbeck further teaches limitations of the claim in column 5, line 56-column 6, line 3.

Regarding claim 28, Rydbeck teaches a cellular radio telephone having an audio input device and an audio output device with which a user can communicate in a cellular radio telephone network (FIG. 6), comprising:

a user input/output portion comprising a first audio input device, and a first audio output device (FIG. 4a, speaker 140 and microphone 150), and a first low power wireless transceiver (FIG. 4a, transmitter 205 and receiver 210, and FIG. 6; and column 3, lines 39-48),

a cellular transceiver portion comprising cellular radio transceiver circuitry for communicating in the cellular radio telephone network (FIG. 6, transceiver 260; and column 5, line 56-column 6, line 3), a second low power wireless transceiver for communicating with the first low power wireless transceiver of the user input/output portion (FIG. 4a, transmitter 205 and receiver 210, and FIG. 6; and column 3, lines 39-48),

wherein, when the cellular transceiver portion and the user input/output portion are physically separated (FIG. 4 2c), the cellular radio telephone has a first default mode of operation in which the first and second low power wireless transceivers enable a user to communicate using the first audio input device and the first audio output device in the cellular radio telephone (abstract).

It should be noticed that, Rydbeck fails to teach the feature of a second audio input device and a second audio output device. However, Iwata teaches such limitations in paragraph [0035].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of a second audio input device and a

second audio output device, as taught by Iwata, in view of Rydbeck, in order for the user to be able to use the mobile phone even when the headset is not accessible.

Regarding claim 29, Iwata further teaches limitations of the claim in paragraph [0030].

Regarding claim 30, Iwata further teaches limitations of the claim in paragraph [0035], and FIG. 6b (inherently when operation is done, the user is provided an option to command the disconnection, to switch to normal mode; or user can select a device when in normal mode).

Regarding claim 31, Iwata further teaches limitations of the claim in paragraph [0035].

Regarding claim 32, Rydbeck further teaches limitations of the claim in column 1, lines 46-56.

Regarding claim 34, Rydbeck further teaches limitations of the claim in column 1, lines 46-56.

5. **Claims 3, 7-8, 15-17, and 21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rydbeck in view of Iwata as applied to claim 1 above and further in view of Nuovo (U.S. Publication: 2004/0147294; hereinafter "Nuovo").

Regarding claim 3, Rydbeck teaches all subject matter as claimed above except for the feature of the user input/output devices being housed in an ornamental housing customized to a user's specification at manufacture. However, Nuovo teaches such limitations in column 2, paragraph [0036].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of user input/output devices being housed in an ornamental housing customized to a user's specification at manufacture, as taught by Nuovo, in view of Rydbeck in order to satisfy individual tastes.

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Regarding claim 7, Nuovo further teaches such limitations in column 2, paragraph [0036]-[0044].

Regarding claim 8, Nuovo further teaches such limitations in column 2, paragraph [0070].

Regarding claim 15, Rydbeck teaches all subject matter as claimed above except for the feature of each of the predetermined plurality of cellular transceivers has a different housing ornamentation and/or a different functionality. However, Nuovo teaches such limitations in column 2, paragraph [0036].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of each of the predetermined plurality of cellular transceivers has a different housing ornamentation and/or a different functionality, as taught by Nuovo, in view of Rydbeck in order to satisfy individual tastes.

Regarding claim 16, Nuovo further teaches such limitations in column 2, paragraph [0036].

Regarding claim 17, Nuovo further teaches such limitations in column 2, paragraph [0036].

Regarding claim 21, Nuovo further teaches such limitations in column 2, paragraph [0036]-[0044].

Regarding claim 22, Nuovo further teaches such limitations in column 2, paragraph [0070].

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6. **Claims 9, and 23-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rydbeck in view of Iwata as applied to *claims 1 and 13* above and further in view of Kivelä (EP 0840465A2; hereinafter "Kivelä").

Regarding claim 9 and 23, Rydbeck teaches all subject matter as claimed above except for the feature of each of the user input/output devices having input means that allow the user to control remotely one or more of the following radio telephone functions: answering an incoming call, ending an on going call, muting the current call and voice dialing. However, Kivelä teaches such limitations in FIG. 2 and column 4, lines 45-55.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of each of the user input/output devices having input means that allow the user to control remotely one or more of the following radio telephone functions: answering an incoming call, ending an on going call, muting the current call and voice dialing, as taught by Kivelä in view of Rydbeck, in order to for the user to control a radio telephone without having to operating the complicated keypad.

Regarding claim 24, Kivelä further teaches limitations of the claim in and column 4, lines 45-55.

7. **Claim 33** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rydbeck in view of Iwata as applied to claim 28 above and further in view of Baranowski (U.S. Patent 6,473,630; hereinafter "Baranowski").

Regarding claim 33, Rydbeck and Iwata, in combination, teaches all subject matter as claimed above, and Rydbeck further teaches the feature of having a first configuration in which the user input/output portion and the cellular transceiver portion are physically separated and a

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second configuration in which the user input/output portion and the cellular transceiver portion are electrically connected, wherein the cellular telephone is arranged to operate automatically in the first mode in the first configuration

It should be noticed that, the combination, fails to teach the feature of the second mode in the second configuration.

However, Baranowski teaches such limitations in FIG. 3, column 2, line 50-column 4, line 4 (In Baranowski system, the mobile phone can be used independently from the headset since it has its own microphone and speaker – see column 2, lines 51-63. The mobile phone battery can be used to charge the headset - see column 3, lines 61-65. It is inherently understood that, in case when the headset battery is depleted; the user can charge the headset by attached the headset to the mobile as shown in FIG.3 and use the microphone and speaker provided by the mobile phone for a calls).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the feature of the second mode in the second configuration, as taught by Baranowski in view of Rydbeck and Iwata, in order to continuously provide communication even when the headset is not accessible.

Response to Arguments

8. Applicant's arguments filed October 20, 2005 have been fully considered but they are not persuasive.

9. Applicant argues that “none of the prior art documents disclose a user selecting one of a plurality of user input/output devices for use as part of the cellular telephone” (see arguments on page 11, second full paragraph).

In response, the Examiner disagrees because as explained in last Office action Iwata (US 2002/0045454) discloses such limitations in Figures 6 and paragraph 0008. Any of headsets 1 or 2 can be selected by the user for use with the cellular telephone.

In addition, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

10. Applicant argues that Rydbeck does not disclose the cellular telephone having audio input and output devices (see arguments on page 11, last paragraph).

In response, the Examiner disagrees because as explained in last Office action Rydbeck (US 5,590,417) discloses, for example, speaker 140 (audio output device) and microphone 150 (audio input device), Figure 4a.

11. Applicant argues that while Iwata does disclose a cellular telephone having its own audio input and output portion there is no disclosure of a first default mode of operation where the user uses the audio input and output devices of the removable portion to communicate with the cellular radio telephone (see arguments on page 12, first paragraph).

In response, handsets (1 or 2 - Figures 6 and paragraph 0008) by definition provide for the user to use the audio input and output devices of the removable portion (handset) to communicate with the cellular radio telephone.

In addition, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably

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distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the teaching, suggestion, or motivation can be found in the knowledge generally available to one of ordinary skill in the art as explained in last Office action.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

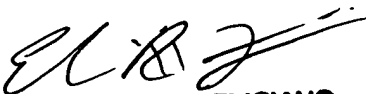
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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14. Any inquiry concerning this communication from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is 571-272-7925. The examiner can normally be reached from 8:00 a.m. to 5:30 p.m. on 5-4/9 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid, can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ELISEO RAMOS-FELICIANO
PATENT EXAMINER

ERF/erf
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